SETTLEMENT AGREEMENT

I. Parties

This Settlement Agreement ("Agreement") is entered into between the State of Michigan and the defendant Walgreen Co. and its affiliates and subsidiaries, (See Exhibit A attached) ("Walgreens"), acting through their authorized representatives (hereinafter referred to as "the Parties")

II. Preamble

As a preamble to this Agreement, the Parties agree to the following:

A. Walgreen Co. is an Illinois corporation headquartered in Deerfield, Illinois. Walgreens is a nationwide retail pharmacy chain with over 5,000 stores in 48 states and Puerto Rico.

B. Relator Bernard Lisitza is an individual resident of the State of Illinois On January 31, 2003, Relator filed a *qui tam* action in the United States District Court for Northern District of Illinois captioned *United States et al. ex rel. Bernard Lisitza., v. Walgreens Co.,* No. 03 C 744 (hereinafter "the Civil Action").

C. The State of Michigan contends that Walgreens submitted or caused to be submitted claims for payment to the State of Michigan's Medicaid Program ("Medicaid"), 42 U.S.C. §§ 1396-1396v.

D. The State of Michigan contends that it has certain civil and administrative monetary claims, as specified in subparagraphs i, ii, and iii, against Walgreens for engaging in the following conduct (hereinafter referred to as the "Covered Conduct"):

i. From July 1, 2001 through December 31, 2005, Walgreens improperly switched its Medicaid patients who were prescribed Ranitidine (generic Zantac) 150 mg or 300 mg

tablets or a prescription that did not specify a dosage form to the capsule form of the drug. This switch occurred because of Federal Upper Limits ("FULs") that had been placed on the tablet form of Ranitidine by the Centers for Medicare and Medicaid Services ("CMS").

ii. From August 1, 2001 through December 31, 2005, Walgreens improperly switched its Medicaid patients who were prescribed Fluoxetine (generic Prozac) 10 mg or 20 mg capsules or a prescription for those drugs that did not specify the dosage form to the tablet form of the drug.

iii. From July 1, 2001 through December 31, 2005, Walgreens improperly switched its Medicaid patients who were prescribed Selegiline (generic Eldepryl) 5 mg tablets or a prescription for those drugs that did not specify the dosage form to the capsule form of the drug

E The State of Michigan contends that as a result of engaging in this switching behavior as described in D(i)(ii)and (iii), Walgreens received reimbursement amounts from Medicaid that were higher than it was entitled to receive.

F. This Settlement Agreement is not an admission of liability by Walgreens, nor is it evidence of any valid claim Walgreens denies the State's contentions, including the contentions that it dispensed improper dosage forms of any prescription drug and that it did so because of the existence of a FUL for any drug product. Walgreens also denies that it has any liability to the State for the Covered Conduct Nothing in this Settlement Agreement nor any consideration exchanged pursuant to this Settlement Agreement shall be construed as an admission or finding of liability or wrongdoing by Walgreens

G. Walgreens is concurrently entering into a separate settlement agreement (hereinafter referred to as the "Federal Settlement Agreement and Release") with the United States Department

of Justice (hereinafter referred to as the "United States") which will be receiving settlement funds from Walgreens pursuant to Paragraph 1(a) below for the Covered Conduct described in Paragraph D above.

H. To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, the Parties reach a full and final settlement pursuant to the Terms and Conditions below.

III. Terms and Conditions

1. Walgreens agrees to pay to the United States and the states which will be receiving settlement funds pursuant to this paragraph ("the Participating States") collectively $35 million (the "Settlement Amount"). The Settlement Amount is to be paid to the United States and the Participating States as follows:

a. Walgreens and the United States agree that the sum of $18,584,972.62 represents the Federal Share (the "Federal Settlement Amount"). Walgreens agrees to pay the Federal Settlement Amount to the United States by electronic funds transfer pursuant to written instructions to be provided by the U.S. Attorney's Office for the Northern District of Illinois. Walgreens agrees to make this electronic funds transfer no later than 10 days from the Effective Date of the Federal Settlement Agreement and Release.

b. Walgreens and the Participating States agree that the sum of $16,415,027.37 represents the Participating States' share (the "State Settlement Amount") under terms and conditions agreed upon by Walgreens and the Participating States (the "State Settlement Agreements"). Within ten business days from the execution of the State Settlement Agreements by all of the Participating States, or at any earlier date as otherwise agreed in writing between

Walgreens and the National Association of Medicaid Fraud Control Units' Negotiating Team ("NAMFCU"), Walgreens shall transfer the State Settlement Amount to an account designated by NAMFCU for distribution to the Participating States.

c. The total portion of the Settlement Amount paid by Walgreens in settlement for the Covered Conduct to the State of Michigan is $313,100.81, consisting of a portion paid to the State of Michigan under this agreement and another portion paid to the federal government as part of the Federal Settlement Agreement and Release. The individual portion of the State Settlement Amount allocable to the State of Michigan under this agreement is the sum of $125,114.05.

d. Contingent upon the Participating States receiving the State Settlement Amount from Walgreens and as soon as feasible after receipt, the Participating States agree to pay $1,844,377.28 to Relator by electronic funds transfer pursuant to instructions provided by Counsel for the Relator, Michael I. Behn of Behn & Wyetzner, Chartered.

2. Subject to the exceptions in Paragraph 3 below, in consideration of the obligations of Walgreens in this Agreement, conditioned upon Walgreens' full payment of the Federal and State Settlement Amounts, the State of Michigan on behalf of itself, its officers, agents, agencies, and departments, agrees to release Walgreens and its current and former directors, officers, employees, and agents from any civil or administrative monetary claim the State of Michigan has or may have for the Covered Conduct.

3. Notwithstanding any term of this Agreement, the State of Michigan specifically does not release any person or entity from any of the following claims or liabilities: a. any civil, criminal, or administrative liability arising under State of Michigan revenue codes; b. any criminal liability; c. any civil or administrative liability not covered by this release that Walgreens has or may have

under any state statute, regulation, or rule; d. any liability to the State of Michigan (or its agencies) for any conduct other than the Covered Conduct; e any liability based upon such obligations as are created by this Agreement; f. except as explicitly stated in this agreement, any administrative liability, including mandatory exclusion from the State of Michigan's Medicaid Program; and g. any claims for personal injury or property damage or for other consequential damages related to the Covered Conduct.

4. In consideration of the obligations of Walgreens in this Agreement and the Corporate Integrity Agreement ("CIA") entered into between OIG-HHS and Walgreens, and conditioned upon Walgreens' full payment of the Federal and State Settlement Amounts, the State of Michigan agrees to release and refrain from instituting, directing, or maintaining any administrative action seeking exclusion from the State of Michigan's Medicaid Program, except as reserved in Paragraph 3, for the Covered Conduct. Nothing in this Agreement precludes the State of Michigan from taking action against Walgreens in the event that Walgreens is excluded by the federal government, or for conduct and practices other than the Covered Conduct. The Medicaid Fraud Control Unit for the State of Michigan further agrees to refrain from recommending, causing or attempting to cause any administrative action or sanction, including debarment, by any other governmental agency of the State of Michigan for the Covered Conduct. The State of Michigan does not have the authority to release Walgreens from any claims or actions which may be asserted by private payers or insurers, including those that are paid by a state's Medicaid Program on a capitated basis.

5. Walgreens waives and shall not assert any defenses Walgreens may have to any criminal prosecution or administrative action for the Covered Conduct that is based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the

Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action; however, all other defenses that Walgreens may have are not waived Nothing in this Paragraph or any other provision of this Agreement constitutes an agreement by the State of Michigan concerning the characterization of the Settlement Amount for purposes of state revenue laws.

6 Walgreens fully and finally releases the State of Michigan, its agencies, employees, servants, and agents from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that Walgreens has asserted, could have asserted, or may assert in the future against the State of Michigan, its agencies, employees, servants, and agents, for the Covered Conduct and the State of Michigan's investigation and prosecution of the Covered Conduct

7. The Settlement Amount shall not be decreased as a result of the denial of claims for payment now being withheld from payment by the State of Michigan's Medicaid Program or other state payer for the Covered Conduct; and Walgreens shall not resubmit to the State of Michigan's Medicaid Program, or any state payer any previously denied claims for the Covered Conduct, and shall not appeal any such denials of claims.

8. The State of Michigan agrees to dismiss with prejudice any lawsuit specifically as to Walgreens, including any *qui tam* "whistleblower" lawsuit, in which the state has intervened and/or has the authority to dismiss, currently pending against Walgreens in the courts of the State of Michigan or in Federal Court, for the Covered Conduct

9. Walgreens agrees to cooperate fully and truthfully with the State of Michigan's investigation related to the Covered Conduct of individuals and entities not released in this Agreement. Upon reasonable notice, Walgreens shall encourage, and agrees not to impair the

cooperation of its directors, officers, and employees, and shall use its best efforts to make available, and encourage the cooperation of former directors, officers, and employees for interviews and testimony, consistent with the rights and privileges of such individuals. Upon reasonable request, Walgreens agrees to furnish to the State of Michigan complete and unredacted copies of all documents, reports, memoranda of interviews, and records in its possession, custody, or control concerning any investigation of the Covered Conduct that it has undertaken, or that has been performed by its counsel or other agent, unless such material is covered by a valid claim of privilege

10 Except as provided herein, this Agreement is intended to be for the benefit of the Parties only

11 Walgreens waives and shall not seek payment for any of the health care billings covered by this Agreement from any health care beneficiaries or their parents, sponsors, legally responsible individuals, or third party payers based upon the claims defined as Covered Conduct.

12 Walgreens warrants that it has reviewed its financial situation and that it currently is solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I), and shall remain solvent following payment to the United States and the Participating States of the Settlement Amount. Further, the Parties warrant that, in evaluating whether to execute this Agreement, they (a) have intended that the mutual promises, covenants, and obligations set forth constitute a contemporaneous exchange for new value given to Walgreens, within the meaning of 11 U.S.C. § 547(c)(1); and (b) conclude that these mutual promises, covenants, and obligations do, in fact, constitute such a contemporaneous exchange. Further, the Parties warrant that the mutual promises, covenants, and obligations set forth herein are intended to and do, in fact, represent a reasonably

equivalent exchange of value that is not intended to hinder, delay, or defraud any entity that Walgreens was or became indebted to on or after the date of this transfer, within the meaning of 11 U.S.C § 548(a)(1).

13. In addition to all other payments and responsibilities under this agreement, Walgreens agrees to pay all reasonable travel costs and expenses for the NAMFCU Team in an amount not to exceed $10,000 00. Walgreens will pay this amount by separate check or wire transfer made payable to the National Association of Medicaid Fraud Control Units after the Participating States execute this agreement or as otherwise agreed by the parties

14 Walgreens represents that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever.

15. This Agreement is governed by the laws of the State of Michigan This Agreement constitutes the complete agreement between the Parties This Agreement may not be amended except by written consent of the Parties.

16. The individuals signing this Agreement on behalf of Walgreens represent and warrant that they are authorized by Walgreens to execute this Agreement. The individuals signing this Agreement on behalf of the State of Michigan represent and warrant that they are signing this Agreement in their official capacities and are authorized by the State of Michigan to execute this Agreement

17. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

18. This Agreement is binding on and inures to the benefit of Walgreens' successors, transferees, heirs, and assigns.

19. All Parties consent to the disclosure of this Agreement, and information about this Agreement, to the public.

20 This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

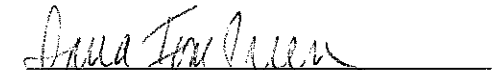
STATE OF MICHIGAN

DATED: 4/25/2008 BY: _____
State of Michigan
Office of the Attorney General
Medicaid Fraud Control Unit

DATED: 4-23-2008 BY: James R Brandell
State of Michigan
Medicaid Program

Walgreen Co. - DEFENDANT

DATED: 6/2/08

BY: 

DANA I GREEN
Senior Vice President
General Counsel and Corporate Secretary
Walgreen Co.

DATED: 5/29/08

BY:

FREDERICK ROBINSON
Fulbright & Jaworski L.L.P.
Counsel for Walgreen Co.

EXHIBIT A

Walgreen Co.

Bond Drug Co. Of Illinois, LLC

Walgreen Hastings Co.

Walgreen Eastern Co.

Walgreen Louisiana Co

Walgreen Arizona Drug Co.

Happy Harry's, Inc.

Walgreen of Puerto Rico, Inc.

Walgreen of San Patricio, Inc.